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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY
DOCKET NO.

Deceased

In the Matter of the Suspension)
or Revocation of the License of)

Administrative Action

JOHN DUMANSKI, D.D.S.)

ORDER OF
TEMPORARY SUSPENSION

To Practice Dentistry in the
State of New Jersey

This matter was opened to the New Jersey State Board of Dentistry upon the filing of a Notice of Motion for Temporary Suspension of License, a Notice of Hearing and Notice to Answer, and a Verified Complaint with supporting certification by W. Cary Edwards, Attorney General of New Jersey by Kathy Rohr, Deputy Attorney General.

The Verified Complaint alleges that the pattern of conduct of Dr. Dumanski (hereinafter, sometimes "respondent") since approximately August of 1986 and continuing to the present in allowing his dental office to remain in an appallingly and shockingly filthy, unsanitary and unhealthy condition demonstrates a total disregard for the public's health, safety and welfare and demonstrates a total incapacity on respondent's part to conduct his dental practice in a manner consistent with the standards required of licensees in this State. The Verified Complaint further alleges that this continuing pattern of conduct constitutes gross negligence, gross malpractice or gross incompetence in violation of N.J.S.A. 45:1-21(c); repeated acts of negligence,

malpractice or incompetence in violation of N.J.S.A. 45:1-21(d); professional misconduct in violation of N.J.S.A. 45:1-21(e); and/or demonstrates that respondent is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare in violation of N.J.S.A. 45:1-21(i). Dr. Dumanski, through his attorney, Douglas J. Kinz, Esq., submitted his certification in opposition to the State's Notice of Motion for Temporary Suspension of his license.

Hearings in this matter were held on April 6, 1988, April 20, 1988 and May 4, 1988. Written summations were submitted and closing arguments were made on June 1, 1988.* The Board conducted its deliberations in Executive Session on June 1, 1988. The Board's decision was announced in Public Session on June 1, 1988; this Order memorializes the Board's decision. The State presented the testimony of two witnesses: Henry McCafferty, Health Officer, City of Passaic; and John Coyle, Chief Sanitary Inspector, City of Passaic. Respondent presented the testimony of four witnesses: Wanda Andriko (respondent's sister); John Dumanski (respondent's son); Deborah Wacker, Special Investigator, Enforcement Bureau, Division of Consumer Affairs; and John Dumanski, D.D.S. (i.e. respondent). The following items were admitted into evidence:

*During this entire period (i.e. from March 16, 1988 to present), Dr. Dumanski's office remained closed pursuant to Passaic Department of Health order.

R-1	Report of Henry G. McCafferty, Health Officer dated March 18, 1988.
R-2	Memorandum of Deborah A. Wacker dated March 3, 1988.
R-3	Report of Deborah A. Wacker dated March 7, 1988.

Both Mr. Coyle and Mr. McCafferty testified as to the physical condition of Dr. Dumanski's dental office as they observed it on March 16, 1988. In his report dated March 18, 1988, Health Officer McCafferty found Dr. Dumanski's office to be in "gross unsanitary condition." Dr. Dumanski's office was therefore closed and ordered to cease operations by Mr. McCafferty. The March 18, 1988 report outlined the health officer's findings:

- There was no workable sanitary facilities present in the office area for the dentist or his patients.
- Hot water was shut off due to a plumbing problem and no arrangements had been made to correct the problem leading to the inability of the dentist to properly wash hands or wash and sanitize equipment.
- Dental utensils were soiled with blood and other matter and pitted.
- Dentist was observed with blood on hands and clothing with no apparent intent to wash them after patient care.
- Protective gloves, goggles etc. not worn or observed in operating area of establishment.
- Foul odor present throughout area.

- Obvious leak in ceiling causing falling tiles, open spaces and soiled tiles causing a safety threat to patients. Condition found in hallway leading to operating rooms and room #1.
- Hanging wires from light fixtures found in examining room #2.
- Office and examining rooms in need of washing, cleaning and dusting. Dust and dirt caked on walls, floors and equipment.
- House and outside area in dire need of cleaning, removal of dog and cat waste and abatement of odors. This condition because of odor has seriously affected office and examining room areas.

Both officials described for the Board the conditions existing in Dr. Dumanski's office that caused it to be shut down. Each inspector emphasized the filthiness of the office and the high level of clutter therein. Both men also described the putrid and repugnant odor, which they identified as animal feces and urine, that permeated Dr. Dumanski's office and home.

Mr. McCafferty and Mr. Coyle also described for the Board conditions existing in each of the rooms of respondent's dental office:

Operatory Number 1

- room in complete disarray.
- materials and instruments stored in a haphazard manner; anywhere there was room to put an instrument, there was one. Mr. Coyle estimated the number of instruments to be "A couple hundred just laying all over the place."

- the instruments, which were inspected at random, were stained either with blood or a white material (thought to be cement).
- dental chair dirty and in need of cleaning.
- no hot water.
- floor dirty.
- ceiling stained and broken apart.

Workroom (off Operatory Number 1)

- unsanitary.
- dirty.

Operatory Number 2

- very dirty and dusty; looked like it hadn't been cleaned in a long time.
- instruments strewn about.
- hanging wires from ceiling; light fixture did not work.
- hanging ceiling tiles.
- cluttered; used to store equipment.

Bathroom

- no hot water.
- toilet did not flush.

Office

- desk cluttered with files and equipment.
- hanging ceiling tiles.

Waiting Room

- dusty; visible dust on furniture.

Both Mr. McCafferty and Mr. Coyle testified that on the date they conducted the inspection of respondent's office, Dr. Dumanski was treating a patient. They both stated that when respondent joined them to do the inspection, his hands

were covered with blood; Mr. Coyle described Dr. Dumanski in this fashion: "His hands were covered with blood. I don't mean fingertips. The whole hand like he slaughtered an animal or something. Just covered with blood, and he had accompanied us on the inspection that time all the way." *

Mr. McCafferty and Mr. Coyle returned to Dr. Dumanski's office on March 23, 1988 to check on respondent's progress in cleaning his office. Though some attempts had been made to clean the office and some of the problems were corrected (hot water fixed; some ceiling tiles replaced; carpet in home removed in an attempt to lessen the odor), the level of cleanliness of the office was about the same as it was during the March 16, 1988 inspection. The office was still dirty, dusty and cluttered, a repulsive odor still permeated the office, and there was no change in the condition of Operatory Number One.

The Board finds both Mr. McCafferty and Mr. Coyle to be credible witnesses. Both of these officials have extensive experience in the health and sanitation fields. The Board is persuaded that Mr. McCafferty's and Mr. Coyle's testimony presented an accurate description of the condition of Dr. Dumanski's office.

*Transcript of April 20, 1988 hearing, page 16, lines 22-25 and page 17, line 2.

Respondent presented four witnesses. Wanda Andriko testified as to the conditions in respondent's office on the day of the inspection, the assistance she provides to respondent in cleaning his dental office, and the general condition of respondent's office. The Board finds that Ms. Andriko is not a credible witness. Her testimony was largely inconsistent with testimony offered by the other witnesses. Ms. Andriko's categoric denial that there were any problems with Dr. Dumanski's office, even in the face of admissions by both her nephew and Dr. Dumanski that there were some problems with the cleanliness of respondent's office, removes any shred of credibility from her testimony.

John Dumanski, respondent's son, offered little relevant testimony. He did, however, acknowledge that there was an odor present in respondent's house and office and that the presence of animals (4 dogs and 2 cats) in respondent's home (basement) contributed to the odor. Mr. Dumanski also acknowledged that there had been problems with the maintenance of the house.

Next to testify was Deborah Wacker, Investigator from the Division of Consumer Affairs Enforcement Bureau. Investigator Wacker testified that she had been doing investigations of Dr. Dumanski's office for approximately one year as a result of a prior Board order concerning Dr. Dumanski and the conditions in his office. Investigator

Wacker testified as to the conditions existing in Dr. Dumanski's office on various dates throughout the past year when she conducted inspections. While Investigator Wacker testified that the office was "clean" on several occasions, one as recently as March 3, 1988, Investigator Wacker stated that "clean is relative throughout this case" (Transcript of April 20, 1988 hearing, page 105, lines 20-21). In response to further questioning, Investigator Wacker testified that Dr. Dumanski's office was "bottom-line clean. When I say his office is "clean", its just passing cleanliness. [Q: When you say its "unclean"...] Its disgusting." (Transcript of April 20, 1988 hearing, page 125, lines 11-14). Investigator Wacker also testified that when she would point out clutter or dirty areas to Dr. Dumanski and/or discuss these areas with him, Dr. Dumanski would state that he didn't see the problem or thought the area or item in question was clean. The Board finds Investigator Wacker to be a credible witness.

Dr. Dumanski testified on his own behalf. Respondent discussed his health problems, which include surgery for prostate cancer (about 2 years ago), a stroke (about a year ago), and angina (about 6 months ago). Dr. Dumanski admitted that he has a slight limp in his left leg as a result of the stroke and cannot walk as fast as he used to; however, he indicated that he continues to practice dentistry despite these problems.

Dr. Dumanski also detailed the procedures he uses to clean his office and equipment and to clean and sterilize his instruments. Dr. Dumanski indicated that he followed this regimen daily: mop all the floors in the dental office; wipe off all appliances; clean patients' bathroom; clean sinks in operatories; clean dental chair. Dr. Dumanski stated that he cleans drawers and cabinets twice a week. Additionally, Dr. Dumanski testified that he wipes off his hand pieces between patients and sterilizes one or two hand pieces a day; that he rinses off his instruments between patients and sterilizes his instruments between five and six times a day. Dr. Dumanski indicated he uses the following procedure to sterilize instruments: when finished with patient, rinse the instruments off in the sink in operatory number one, then bring instruments to sterilization room; in sterilization room, place the instruments in hot, soapy water, rinse them off and leave them in bowl; when he gets time, rinse them off again, place them into a tray to dry and then into the Chemclave to be sterilized. As relates to cleaning up after his four dogs, Dr. Dumanski testified that the dogs are now kept outside during the day and in the garage or basement at night. Dr. Dumanski testified that he cleans up after the dogs outside four times a day. The dogs are paper-trained and when they are kept inside, respondent stated he cleans and removes papers three times a day and washes the floor once a day. Dr. Dumanski testified that he would do this cleaning up after the dogs

in the morning before his patients, during his lunch breaks, during his dinner break, and before bed. Dr. Dumanski stated that he sees approximately seven patients a day, from approximately 8:00 A.M. to 7:00 P.M., with an average appointment lasting one hour. Respondent testified that he also answers the telephone, collects fees for his services and makes appointments for his patients. The Board finds Dr. Dumanski's testimony difficult to believe and place in context with the other testimony. First, if Dr. Dumanski were as diligent as he states he was in maintaining his office, the Division of Consumer Affairs investigator and the Passaic Department of Health officials would not have found the office in the horrendously dirty condition to which they testified. Additionally, there are hardly enough hours in the day for respondent, especially in his physical condition, to do all he testifies to doing, from cleaning the office, equipment and instruments to cleaning up after the animals to treating patients. While Dr. Dumanski may make efforts to clean and maintain his office, the Board does not believe that he follows the regimen he described at the hearing.

The Board is also troubled by other aspects of Dr. Dumanski's testimony. For instance, respondent indicated that a leak in his dental chair which caused water to puddle on the floor took one year to fix and that a roof/ceiling which had been leaking over the course of a year was fixed only after Dr. Dumanski was ordered to fix it by the Passiac Department of Health. Dr. Dumanski's apparent inability or unwillingness

to immediately recognize and rectify such obvious problems leads the Board to believe that Dr. Dumanski is incapable of recognizing and dealing with any sort of cleanliness or maintenance problem.

Similar to the above concern, but much more troubling to the Board, are Dr. Dumanski's statements that he did not perceive the odor in his office and that he did not believe his office was cluttered or dirty. Although Dr. Dumanski appeared to acknowledge, in response to his attorney's questioning, that he has problems with the maintenance and cleanliness of his dental office and that he needs help to clean and maintain his dental office, in response to questions by Deputy Attorney General Rohr and members of the Board, Dr. Dumanski stated: "Q. With regard to the odor, you said that the odor - first of all, you say you don't smell the odor? A. No, I don't smell the odor." (Transcript of May 4, 1988 hearing at page 76, lines 10-12); "Q. We've heard a lot of testimony that there's a mess in your office. All through this time, have you felt that the office has been messy? A. No, sir. I have a large amount of instruments..." (Transcript of May 4, 1988 hearing at page 87 line 25 and page 88, lines 2-4). Such statements lead the Board to believe that Dr. Dumanski does not even recognize that a problem relating to the cleanliness and sanitarness of his office exists.

The Board finds that Dr. Dumanski's office does not

meet, and falls far below, the acceptable standards for cleanliness for a dental office in New Jersey. Even though Dr. Dumanski was under Board order to keep his dental office clean and was aware that his office was subject to regular monthly inspections for cleanliness, he allowed his office to consistently be maintained in a dirty and unsanitary condition.

The Board finds that Dr. Dumanski really does not recognize that a problem exists with the cleanliness and maintenance of his office. Further, the Board is not persuaded that Dr. Dumanski is able to take effective steps to ameliorate the problems that do exist. The Board has serious concerns about Dr. Dumanski's judgment and perception based on his inability to recognize that his dental office is in an unsanitary condition and that it poses a danger to patients. Because of these grave concerns about Dr. Dumanski's judgment, the Board cannot allow him to continue to practice in this fashion and does not trust his representations that he can, in the future, properly maintain his office.

The Board having considered the State's Notice of Motion for Temporary Suspension of License, the Verified Complaint (with accompanying certification and documents), Dr. Dumanski's certification in opposition to the State's motion for temporary suspension, the testimony presented at the hearings and the exhibits introduced into evidence, the Board finds that the State's application palpably demonstrates a clear and imminent danger to the public health, safety and welfare. Therefore,

IT IS ON THIS 15 DAY OF June, 1988,

ORDERED that the license of John Dumanski, D.D.S., to practice dentistry in the State of New Jersey is hereby temporarily suspended pending a plenary hearing on the administrative complaint.

A handwritten signature in cursive script, reading "Arnold Graham", followed by the initials "NB". The signature is written in dark ink and is positioned above a horizontal line.

ARNOLD GRAHAM, D.D.S.
PRESIDENT
STATE BOARD OF DENTISTRY